

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEITH ROSARIO,	)	
	)	
Plaintiff,	)	2:21-cv-208
	)	
vs.	)	
WESTMORELAND COUNTY, PA;	)	District Judge Robert J. Colville
WESTMORELAND COUNTY	)	Magistrate Judge Maureen P. Kelly
COMMISSIONER; WARDEN WALTON;	)	Re: ECF No. 37
DEPUTY WARDEN LOWTHER; DEPUTY	)	
WARDEN SCHWARZ; LIEUTENANT	)	
TOMASELLO; LIEUTENANT WOLFF;	)	
SERGEANT GILLETTE; SERGEANT	)	
BRADLEY; and JOHN DOE 1-6,	)	
	)	
Defendants.	)	
	)	

**ORDER OF COURT**

Before the Court is the Honorable Maureen P. Kelly's May 11, 2022 Report and Recommendation (ECF No. 46), which recommends that the Motion to Dismiss (ECF No. 37) filed by Defendants Sergeant Bradley, Sergeant Gillette, Deputy Warden Lowther, Deputy Warden Schwartz, Lieutenant Tomasello, Westmoreland County, Warden Walton, and John Does 1-6 ("Defendants") be denied. Objections to Judge Kelly's Report and Recommendation were due by May 25, 2022 (or May 31, 2022 for Unregistered ECF Users). No objections were filed, and the matter is now ripe for disposition.

With respect to dispositive matters, the reviewing district court must make a de novo determination of those portions of the magistrate judge's report and recommendation to which objections are made. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The United States

Court of Appeals for the Third Circuit has explained that, “even absent objections to the report and recommendation, a district court should ‘afford some level of review to dispositive legal issues raised by the report,’” and has “described this level of review as ‘reasoned consideration.’” *Equal Employment Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)).

Upon reasoned consideration of Judge Kelly’s May 11, 2022 Report and Recommendation and upon review of the record in this matter, it is hereby ORDERED as follows:

The Court accepts and adopts Judge Kelly’s Report and Recommendation in its entirety as the opinion of the Court. Defendants’ Motion to Dismiss is denied.

BY THE COURT:

s/Robert J. Colville  
Robert J. Colville  
United States District Judge

DATED: June 3, 2022

cc: Honorable Judge Maureen P. Kelly  
United States Magistrate Judge

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